

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FRED CHISOM,

Plaintiff,

V.

CLALLAM BAY CORRECTIONS SUPERINTENDENT,

Defendant.

Case No. C04-5590FDB

ORDER

This case has been referred to United States Magistrate Judge J. Kelley Arnold pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the court on plaintiff's motion for appointment of counsel and plaintiff's motion to consolidate this case with Chisom v. Meyers, C04-5583RJB. (Dkt. # 34 and 37).

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of

1 the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

2 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. Moreover, it appears
3 that this case does not involve exceptional circumstances which warrant appointment of counsel.

4 Accordingly, Plaintiff's Motion to Appoint Counsel is **DENIED**.

5 The motion for consolidation is also **DENIED**. The only defendant in Chisom v. Meyers, C04-
6 5583RJB, Dr. Meyers, is deceased. The case deals with medical care given to plaintiff and has no bearing
7 on the issues in this action which deal with denial of showers and yard and loss of property.

8 The clerk is directed to send a copy of this Order to plaintiff and counsel for defendant.

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10 DATED this 26th day of July 2005.
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12 /S/ J. Kelley Arnold
13 J. Kelley Arnold
United States Magistrate Judge
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